

REMARKS

Claims 1-19 are now presented for examination. Claims 1 and 10-16 have been amended. New Claims 18 and 19 have been added. No new matter has been added. Claims 1, 12, 14, 15, and 19 are independent.

Initially, Applicant thanks the Examiner for taking the time to speak with Applicant and Applicant's undersigned representative on February 9, 2005 to discuss the subject Application. The claims have been carefully reviewed and amended in accordance with the Examiner's helpful suggestions. Applicant believes that the claims presented for examination address the Examiner's concerns and are now in condition for allowance.

On page 2 of the Office Action, Claims 1-7, 9, 11, 12, and 14-17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,381,614 to Goldstein. Claims 1, 9, 11, 12, and 14-16 have been amended and are now believed patentable over the cited reference.

The Examiner cites Goldstein as the basis for the 102(b) rejection. Goldstein discloses golf shoes that are used to obtain an optimal golf stance during driving and iron shots. [Goldstein, col. 2, lines 11-13]. Specifically, the shoes are used to obtain two well-known golf stances, the Hogan stance and the Leadbetter stance. Goldstein specifically relates to aligning one's feet *during driving and iron shots*, and not during putting. [col. 5, lines 14-19]. Finally, Goldstein attempts to solve the problem of how to properly align a golfer's feet in order to achieve the aforementioned stances and does not concern itself in any way to providing an alignment system that assists the golfer in aligning his or her body and club face with the target line.

Claim 1 of the subject Application, as amended, recites a golf shot alignment system comprising a left and a right shoe, each having a longitudinal axis and front and rear regions. Each shoe includes alignment indicia disposed upon an upper surface thereof, *such that when the front and rear regions of the left shoe are side-by-side with corresponding front and rear regions of the right shoe*, the alignment indicia form a vertical alignment channel. This feature is not disclosed in Goldstein.

Because Goldstein fails to disclose a golf alignment system that includes alignment indicia disposed upon a golfer's shoes such that when the front and rear regions of the golfer's shoes are in a side-by-side orientation, a vertical alignment channel is formed, as now claimed, Goldstein cannot constitute 35 U.S.C. §102(b) prior art.

Claims 9, 12 and 14 have also been amended to address the Examiner's rejection based upon Goldstein. Claims 9, 12 and 14 further describe the alignment indicia recited in Claim 1. The indicia as claimed include at least one alignment stripe disposed upon the upper surface of each shoe, where each alignment stripe has a transverse axis offset from the longitudinal axis of the shoe upon which it is disposed such that when the inner portions of the front and rear regions of the left and the right shoe are side-by-side, *the inner edges of the alignment stripes on the left shoe become substantially parallel to the inner edges of the alignment stripes on the right shoe*. This is due to the wider width of a front foot region and a narrower width of a human foot's rear region.

Applicant's invention advantageously takes into account the unique shape of a human's foot, whereby the front region is wider than the rear region. Thus, when the inner portions of the front and rear regions of the shoes are side-by-side, the front regions of the shoes are splayed out

slightly due to the wider front region. This results in the alignment stripes 24 and 26 aligning themselves such that the inner edges of the horizontally disposed stripes on the left shoe are substantially parallel to the inner edges of the stripes on the right shoe, forming a virtual vertical channel directed out toward the putting surface, as shown in Figure 2 and recited in Claims 9, 12 and 14 of the subject Application. This feature is also not disclosed in the Goldstein reference.

While Goldstein discloses multiple horizontal stripes, its stripes traverse the *entire width of the shoe* (shown clearly in Figure 4). Therefore, when the Goldstein shoes are side-by-side, if there was ever a reason to do so, it is impossible for the inner edges of the stripes on the left shoe to align in such a way that they are substantially parallel to the inner edges of the stripes of the right shoe, due to the natural curvature of a human foot's instep region.

Because Goldstein fails to disclose what is recited in Claims 9, 12 and 14, as presently amended, it cannot qualify as anticipatory art under 35 U.S.C. §102(b) with respect to these claims.

For at least the reasons described above, Claims 1, 9, 12 and 14, as well as Claims 2-7, 11, and 15-17, which depend either directly or indirectly from these claims, are believed to be patentable. Applicant therefore respectfully requests that the rejection to Claims 1-7, 9, 11, 12 and 14-17 be withdrawn.

On page 2 of the Office Action, Claims 1-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Goldstein.

As described above, the shoes disclosed in Goldstein are used to obtain two well-known golf stances, the Hogan stance and the Leadbetter stance. Applicant's invention relates to aligning one's body in relation to a target line from the golf ball to the hole by forming an

alignment channel that is created when the golfer brings his or her feet together in a side-by-side manner. While Goldstein attempts to solve the problem of how to properly align a golfer's feet in order to achieve a particular stance it does not relate to providing an alignment system that assists the golfer in aligning his or her body and club face with the target line.

In addition, although Applicant's invention may be used as an alignment method for putting and other types of golf shots, Goldstein's apparatus relates solely to driving and iron shots [see Goldstein Abstract] and expressly distinguishes devices that relate to putting. [Col. 1, line 63 – col. 2, line 2]. Thus, Goldstein constitutes nonanalogous art and cannot be used to render Applicant's claims obvious.

Further, in addition to focusing on a completely different type of alignment, the apparatus disclosed in Goldstein cannot be modified to solve the problem solved by Applicant's invention.

As discussed above, Goldstein attempts to place the golfer in one of two well-known golf stances. In each of these stances (shown in Figure 2 and Figure 8), the golfer's feet are spread wide apart, with at least one foot splayed in an outward direction. In neither of these stances are the golfer's feet "side-by-side", nor would a golfer using the Goldstein shoes ever have a desire to place their feet in such an orientation, since neither the Hogan or the Leadbetter stance require this.

As discussed above, the claims of the subject Application have been amended to specifically point out that the indicia on the Goldstein shoes cannot form the vertical alignment channel as claimed by the Applicant. Specifically, Goldstein neither discloses or suggests alignment indicia that, when the front and rear regions of the golfer's shoes are side-by-side,

form a vertical alignment channel to assist the golfer in aligning his or her body toward the target line.

The apparatus described in Goldstein addresses a completely different problem than the problem addressed by Applicant. Applicant respectfully states that there has been no showing of any motivation or suggestion to modify the apparatus disclosed in Goldstein to arrive at the invention now claimed by the Applicant. Applicant therefore respectfully asserts that Claims 1, 12, 14 and 15 as amended, are patentable and respectfully requests the withdrawal of the rejection of these claims.

Claims 2-11, 13 and 16-17 are each dependent either directly or indirectly from one or another of independent Claims 1, 12, 14 and 15 discussed above. These claims recite additional limitations which, in conformity with the features of their corresponding independent claim, are not disclosed or suggested by the art of record. The dependent claims are therefore believed patentable. However, the individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In addition, as recited in Claims 10 and 13, Goldstein fails to disclose or suggest the use of a vertically aligned stripe that connects two or more horizontally disposed alignment stripes in order to visually display at least a portion of the vertical alignment channel. Applicant respectfully points out that the stripes the Examiner refers to on Page 3 of the Office Action (with respect to Claims 10 and 13) relate to the *horizontal* stripes shown in Figure 4 of Goldstein, rather than the *vertical* stripe shown in Figures 3 and 4 of the subject Application and recited in Claims 10 and 13. There is no disclosure or suggestion in Goldstein to provide a vertical stripe

connecting the horizontal alignment stripes in order to provide a visual portion of the vertical alignment channel.

Finally, Applicant asserts that new Claims 18 and 19 are patentable in that they each recite features not disclosed or suggested by Goldstein. Claim 18 requires that “when the inner portions of the front and rear regions of the shoes are side-by-side, the alignment stripes on the left shoe become substantially parallel to the alignment stripes on the right shoe” due to the larger front region of the human foot. The parallel relationship between stripes on the left shoe with stripes on the right shoe provide the golfer with a visual line of reference in order to assist the golfer in aligning his or her body toward the target line.

By contrast, the shoes described in Goldstein do not take into account the larger front regions of the golfer’s feet and cannot be oriented to line up the alignment stripes as required by Claim 18. Goldstein fails to suggest orienting one’s feet in a side-by-side manner *since Goldstein is not designed for putting and is specifically designed to be used to obtain a stance in which the golfer’s feet are spread wide apart.* Thus, Claim 18, as amended cannot be anticipated or deemed obvious in light of the Goldstein reference.

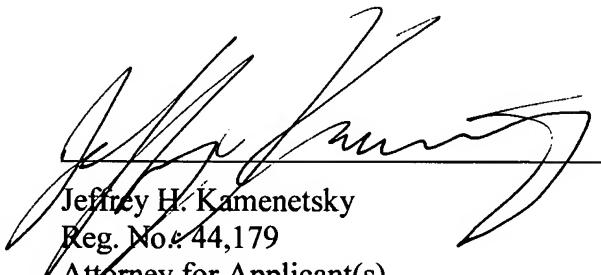
New Claim 19 requires that when the inner portions of the front and rear regions of the left and the right shoe are touching each other, the alignment indicia form a vertical alignment channel. Once again, Goldstein does not disclose or suggest a pair of golf shoes that align the stripes on each shoe with each other when the shoes are touching in the manner described in Claim 19. Because Goldstein fails to disclose this feature, it cannot constitute anticipatory art. In addition, because there must be a suggestion to modify a reference to achieve the claimed

invention and there has been no evidence of such a suggestion, Claim 19 cannot be deemed obvious in light of the Goldstein reference.

For all of the above reasons, the claim objections are believed to have been overcome placing Claims 1-19 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,



Date: February 14, 2005

Jeffrey H. Kamenetsky
Reg. No. 44,179
Attorney for Applicant(s)
Christopher & Weisberg, P.A.
200 East Las Olas Boulevard, Suite 2040
Fort Lauderdale, Florida 33301
Customer No. 31292
Tel: (954) 828-1488
Fax: (954) 828-9122

25833